

ENTERED

January 26, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

RUBEN GONZALES,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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CIVIL ACTION NO. 2:20-CV-00312

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Julie K. Hampton's Memorandum and Recommendation (M&R). (D.E. 29). The M&R recommends that Respondent's motion for summary judgment (D.E. 15) be granted, Gonzales's motion for summary judgment (D.E. 23) be denied, and Gonzales's habeas corpus petition be dismissed in part and denied in part. The M&R further recommends that a Certificate of Appealability be denied.


The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. Plaintiff filed "Written Objections and Motion for Leave F.C.R." (D.E. 34). The Court construes the motion portion of Plaintiff's document as objections to the Memorandum and Recommendation (M&R) (D.E. 35). Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which Plaintiff's objections were directed, the court **OVERRULES** Plaintiff's objections. (D.E. 34).

Accordingly, the Court **ORDERS** the following:

- (1) The Court **ADOPTS** the M&R in its entirety. (D.E. 29).
- (2) The Court **GRANTS** Respondent's motion for summary judgment. (D.E. 15).
- (3) The Court **DENIES** Plaintiff's motion for summary judgment. (D.E. 23).
- (4) The Court **DISMISSES** Plaintiff's claims that were raised in documents attached to the § 2254 petition as unexhausted and procedurally barred.
- (5) In all other respects, the Court **DENIES** Plaintiff's § 2254 petition.
- (6) Further, the Court **DENIES** a Certificate of Appealability.

A final judgment will be entered separately following this order.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
January 26, 2022